

## 8 PERC ¶ 15043

### LOS ANGELES UNIFIED SCHOOL DISTRICT

California Public Employment Relations Board

**Gust Siamis, Charging Party, v. Los Angeles Unified School District, Respondent.**  
**Gust Siamis, Charging Party, v. United Teachers of Los Angeles, Respondent.**

Docket Nos. LA-CE-1163, LA-CE-1234, LA-CO-134, LA-CO-143

Order No. 311a

February 23, 1984

Before Tovar, Jaeger and Morgenstern, Members

**Unfair Practice Procedures -- Reconsideration Denied -- -- 71.9**PERB declined to reconsider dismissal of employee's charge, which alleged that teachers' union breached its duty of fair representation by withdrawing from processing employee's grievance and refusing to take grievance to arbitration, where evidence showed that union's withdrawal was reasonable in view of employee's failure to leave handling of grievance to union and insisting on pursuing certain grievance matters personally [see 6 PERC 14157 (1983)]. New allegations that ALJ's conduct of hearing was prejudicial were untimely inasmuch as they could have been raised in employee's exceptions to proposed decision.

#### APPEARANCES:

Gust Siamis in his own behalf; Joel M. Grossman, Attorney (O'Melveny & Meyers) for Los Angeles Unified School District; and Richard J. Schwab, Attorney, (Law Offices of Lawrence B. Trygstad) for United Teachers of Los Angeles.

### DECISION

JAEGER, Member: Petitioner requests reconsideration of PERB Decision No. 311 issued May 20, 1983, which disposed of four unfair practice charges filed by him [see 7 PERC 14157]. Two charges were against the Los Angeles Unified School District and two were against United Teachers of Los Angeles. The Board dismissed three of the charges but remanded Case No. LA-CE-1163 for further proceedings.

### DISCUSSION

PERB regulation 32410 provides in part:

(a) Any party to a decision of the Board itself may, because of extraordinary circumstances, file a request to reconsider the decision within 20 days following the date of service of the decision. . . . The grounds for requesting reconsideration are limited to claims that *the decision of the Board itself* contains prejudicial errors of fact, or newly discovered evidence or law which was not previously available and could not have been discovered with the exercise of reasonable diligence. (Emphasis added.)

Petitioner raises no issues concerning the decision of the Board itself, claiming neither prejudicial error on its part nor the existence of new evidence not previously available to him. The basis for his request consists of a considerable volume of criticism, much of it diatribe, of the conduct and rulings of the administrative law judge (ALJ) who presided over the unfair practice cases. To a

great extent, petitioner's allegations were presented to the Board itself in his exceptions to the ALJ's proposed decision. They were considered by the Board and rejected. To the extent petitioner seeks to introduce new allegations concerning the ALJ's conduct and rulings, he is too late. All of these purported incidents occurred, if at all, during the unfair practice hearing, were known to petitioner then and could have been raised in his appeal from the proposed order.

### **ORDER**

The Board, finding in petitioner's request for reconsideration no viable claim of prejudicial error of fact contained in its Decision No. 311, and no claim of newly-discovered evidence or law which was not previously available to petitioner, ORDERS that the request for reconsideration is DENIED.

Members Tovar and Morgenstern joined in this Decision.

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